

EXHIBIT O

FILED UNDER SEAL

1 UNITED STATES DISTRICT COURT
2 FOR THE NORTHERN DISTRICT OF CALIFORNIA
3 SONOS, INC.,
4 Plaintiff,
5 vs. Case No. 3:21-CV-07559-WHA
6 GOOGLE LLC
7 Defendant.

8 -AND-

9 GOOGLE LLC,
10 Plaintiff,
11 vs. Case No. 3:20-CV-06754-WHA
12 SONOS, INC.,
13 Defendant.

14 **HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY**

15 **SOURCE CODE**

16
17 ZOOM DEPOSITION OF DAN SCHONFELD, Ph.D.
18 (Reported Remotely via Video & Web Videoconference)
19 Northbrook, Illinois (Deponent's location)
20 Wednesday, August 31, 2022

21 STENOGRAPHICALLY REPORTED BY:

22 REBECCA L. ROMANO, RPR, CSR, CCR
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23 Washington CCR No. 3491
24 JOB NO. 5414658
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1 been at the time of the hypothetical negotiation, 10:21:16	1 is playing music, the single speaker -- sorry. 10:28:13
2 as I understand it.	2 "When a single" -- and then I will quote here:
3 Q. Again, though, you didn't explain that in	3 "When a single speaker is playing music and a group
4 your expert report, correct?	4 is playing music and the single speaker is added to
5 A. With respect to the one example that I 10:21:34	5 the group, the speaker will begin playing the music 10:28:26
6 highlighted in section 12, I did. With respect to	6 that the group was playing."
7 the nonoverlapping mode -- the nonoverlapping	7 So it -- to restate it and -- right now,
8 groups, rather, I don't recall that I went through	8 at a high level, it would mean that whenever the --
9 a detailed explanation of it, but -- but it -- it	9 a particular speaker has been added to a group,
10 is clear -- pretty clear to me, back then and now, 10:21:55	10 that means that that particular speaker will no 10:29:10
11 that that would be the case.	11 longer function independently. Whatever the group
12 Q. And you don't provide any additional	12 is doing, that's what the speaker will be doing.
13 non-infringing alternatives in your other expert	13 Q. And when you say a particular speaker is
14 reports, correct?	14 added to a group, are you referring to a group that
15 MS. AUBRY: Objection. Form. 10:22:45	15 already exists that was previously created? 10:29:34
16 THE DEPONENT: So in my rebuttal report,	16 A. Not necessarily. If the group has been
17 I rebut Almeroth's -- Dr. Almeroth's opinions that	17 created from scratch, then the moment that the --
18 as it relates to -- to my report as -- in -- in the	18 the speakers are added into that group, all of the
19 form of -- sorry, not in my report, but to the	19 speakers in that group will begin to function in
20 proposed non-infringing alternative provided by 10:24:38	20 unison, and either they will -- if any of them were 10:29:54
21 Google, and it's focused, I believe, exclusively on	21 previously playing something, one of -- one of them
22 the same redesign of this standalone mode. I would	22 will -- whatever one of them is playing will be
23 have to read it again to be sure that that's the	23 played on all the speakers, and if none of them
24 case, but that's my recollection, and I do not	24 are -- were -- were playing, then they will not
25 believe I discuss non-infringing alternatives in 10:24:58	25 play -- they will continue to not play, but they 10:30:10
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1 this supplemental report. 10:25:03	1 will function and be configured to always -- to 10:30:15
2 Q. (By Mr. Smith) Okay. And if we go back	2 always play in synchrony from the moment the group
3 to your opening report and we look at paragraph	3 was established, even if the group did not
4 726, this provides a -- a summary of the	4 previously exist.
5 non-infringing alternative; is that correct? 10:25:25	5 Q. Is your understanding of the standalone 10:30:37
6 A. I mean, you could view it as a summary	6 mode that the player has to be actively engaged in
7 or a over- -- or an overview of the non-infringing	7 the playback of audio?
8 alternative. It's discussed in additional detail	8 A. I'm not sure that I follow you. At -- at
9 also in paragraph 728 and other places.	9 what time period? Are you saying, in order to meet
10 Q. And can you describe for me what the 10:26:30	10 the standalone mode, that would be the criteria, 10:31:05
11 non-infringing alternative is?	11 or -- so I am not sure exactly what you are asking.
12 A. So the -- the answer is described in the	12 Q. In order to meet the standalone mode,
13 high level, as you mentioned, in paragraph 726,	13 does the zone player have to be playing audio?
14 which states that after it -- after the speaker has	14 MS. AUBRY: Objection. Form.
15 been added to the -- to a target group, "it matches 10:27:29	15 THE DEPONENT: That's not my 10:31:39
16 the music (or silence)" from "the target group."	16 understanding.
17 And in -- paragraph 728, as I mentioned,	17 Q. (By Mr. Smith) What is your
18 goes into some additional detail and states that,	18 understanding of the standalone model?
19 at that point, it will "not continue to operate in	19 A. If you look at -- just -- just, for
20 'standalone' mode after" it's "been added 10:27:50	20 example, at paragraph 75 of my supplemental 10:32:47
21 to" the -- "to those zone scenes." But, instead,	21 report -- and this discussion might be flushed out
22 the accused standalone speaker will match the	22 in more detail elsewhere, but this is first
23 music, or silence, of the target scene [sic] as	23 instance that I came across -- it states that under
24 opposed to what happens currently where it -- where	24 the Court order -- under -- under the Court's --
25 the single speaker is playing music and the group 10:28:10	25 sorry. Let me start from scratch. 10:33:09
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1 "I understand the Court also found that 10:33:12	1 music on the speaker and that music will not be 10:36:44
2 the specification does disclose," quote, "that an	2 playing on the other speakers in the group or not
3 individual smart speaker that has been added to a	3 playing music on that speaker and regardless of
4 speaker group will continue to" play "individually	4 what's being played or not played by the other
5 - i.e., in 'standalone mode' - until the speaker 10:33:25	5 speakers in that group. That is my understanding 10:36:58
6 group of which it is a member is activated by the	6 of what "continues to operate individually" would
7 user, at which point the individual speaker will	7 be under the Court's instruction, and that is
8 transition to be" -- "to be controlled as part of	8 exactly what is not permitted in the non-infringing
9 the group," so -- and I state: "I further	9 alternative.
10 understand that with respect to the term 10:33:47	10 Q. So a player can be in standalone mode 10:37:18
11 'standalone mode,' it is sufficient for the	11 even if it's not playing audio, correct?
12 specification to disclose," quote, "that the	12 A. Yes. The only thing that I want to make
13 process of forming zone scene occurs in a specific	13 clear is that my understanding of Sonos's initial
14 order," and then close quote, "where the scene is	14 interpretation is that that was, by itself,
15 saved and," quote, "invoke[d]," close quote, 10:34:07	15 sufficient for being considered to be in standalone 10:37:42
16 "later, regardless of the particular behavior of	16 mode, and I would disagree with that, but the
17 the zone player after the zone scene has been saved	17 answer to your question is: Yes, you can be in
18 and before it has been invoked."	18 standalone mode and not play audio.
19 And just to go back to the quotation from	19 Q. And can you explain why you disagree with
20 the Court's order, the Court's in- -- instructs us 10:34:24	20 Sonos's initial interpretation? 10:38:15
21 that standalone mode is where a speaker has been	21 A. Because that would be inconsistent with
22 added but continues to operate individually, and	22 the Court's order or the claim language, and,
23 that is consistent with the claim language,	23 specifically, that is not sufficient.
24 which -- in the limitation, beginning with "while	24 In other words, if you are in that
25 operating in standalone mode in which the first 10:34:50	25 configuration and you are not playing audio, but 10:38:33
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1 zone player is configured to play back media 10:34:53	1 the moment any other speaker begins to play audio, 10:38:39
2 individually," and that is the understanding that I	2 it implies that you are also going to be playing
3 applied.	3 the same audio, then you were not configured to
4 Q. What does it mean for a player to be	4 play individually, and you did not, in the Court's
5 configured to play back audio individually? 10:35:06	5 words, continue to operate individually, and, 10:38:53
6 A. That it is not configured to play as part	6 therefore, you are not in standalone mode in that
7 of the group, which is precisely what the	7 case.
8 non-infringing alternative contemplates.	8 Q. So, in your opinion, a player can be in
9 Q. So your position is that standalone mode	9 standalone mode when it's not playing audio,
10 covers any mode in which the player -- sorry. 10:35:30	10 correct? 10:39:27
11 Let me -- let me restate that. Scratch that.	11 A. It's -- it's possible; that right. But
12 Your position is that standalone covers	12 it's not a criteria for meeting the standalone
13 you -- or, excuse me, let me restate that again.	13 mode.
14 Your position is that standalone mode	14 Q. What else is required to meet the
15 covers any mode in which the player is not 10:36:01	15 standalone model? 10:39:39
16 configured to play as part of the group; is that	16 A. It -- the -- the Court has already stated
17 correct?	17 that it has to operate individually. And, again,
18 A. My position is that standalone mode is	18 this is consistent with the claim which says
19 where the speakers continues to operate	19 "standalone mode in which the first zone players
20 individually, and I'm quoting directly from the 10:36:23	20 configured to play back media individually." 10:39:57
21 Court's order, and that is -- and it's	21 So if you are not playing but you are
22 configured to -- and then -- and as -- as I said,	22 configured to play whatever -- any other speaker in
23 it's consistent with the claim language where it is	23 the group is playing, then you are not configured
24 configured to play back individually.	24 to play back individually. And, again, in the
25 And so as long as you can either play 10:36:41	25 Court's language, you are -- you are not continuing 10:40:15
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<p>1 new group with a player that's playing different 11:22:20 2 audio, what would happen with the non-infringing 3 alternative? 4 A. Once the group would elect the leader, 5 the -- the audio playing on the leader would be 11:22:35 6 playing on both devices. 7 Q. If a player that is not playing audio is 8 added to a new group with a player that is playing 9 audio, what would happen with the non-infringing 10 alternative? 11:23:02 11 A. I think that was your first question in 12 this hypothetical. You just reversed them, but 13 there is no difference. They would both be playing 14 the same audio. 15 Q. Okay. 11:23:13 16 A. I may have missed something. 17 Q. Yeah, what I'm -- 18 A. One of the two questions -- 19 Q. No -- 20 A. -- they sounded identical to me. 11:23:18 21 Q. Yeah, just the first player was the one 22 not playing audio was added to a group with the 23 second player that was playing audio -- I was just 24 doing the opposite. 25 But you're saying it would operate the 11:23:32 Page 70</p>	<p>1 To put it in another way, it's not just 11:25:12 2 that it would -- that they would both continue to 3 play audio, but they could not actually play 4 individually from that moment on, and that would be 5 true for either device until the group was 11:25:26 6 dismantled. 7 Q. And so circling back to -- to the 8 standalone mode requirement of the claim, it -- 9 it's your opinion that a player can be in 10 standalone mode if it's playing audio on its own, 11:26:23 11 correct? 12 A. I mean, I -- I would go back to 13 paragraph 75 of my supplemental report, which is 14 Exhibit 113, and specifically the Court's order 15 describes that standalone mode is to continue to 11:27:05 16 operate individually. So as long as you continue 17 to operate individually, you are in standalone 18 mode. If you are not operating individually, you 19 are no longer in standalone mode. 20 I'm not sure if that answers your 11:27:23 21 question, but that's my understanding of what 22 standalone mode is. 23 Q. And you can operate in standalone mode 24 whether or not you are playing audio, correct? 25 A. You can operate individually by 11:27:38 Page 72</p>
<p>1 same way, right? If one of the players is playing 11:23:34 2 audio, then once the group is created, both players 3 would start playing the audio of the player that 4 was playing audio; is that correct? 5 A. The group is not aware of the term 11:23:44 6 "first" and "second," so I agree with that. 7 Q. Okay. Now, if a player is not playing 8 audio and is added to a new group with another 9 player that's also not playing audio, what would 10 happen? 11:24:03 11 A. They both would not be playing, but they 12 would be -- but the moment either one of them is 13 playing, it would start playing on both. 14 Q. Okay. And so would something be 15 happening -- I'll call it -- under the hood that 11:24:19 16 would cause those two players to be configured for 17 synchronous playback once they are added to the 18 group? 19 A. Yeah, they -- they -- they would be in a 20 situation where they are part of the group. 11:24:35 21 Everybody is paying attention to whether the group 22 is instructed to play music or -- or either of the 23 devices is instructed to play music or audio, and 24 if the answer is audio is about to begin playing, 25 it will play in both of them or not at all. 11:24:55 Page 71</p>	<p>1 operating -- without playing or while playing, but 11:27:40 2 in either case, you have to operate individually, 3 and if you just simply are not playing, as I 4 mentioned earlier, that's not a proof of anything. 5 That's just one situation. You have to be able to 11:27:57 6 operate individually both to play and not play. 7 If -- and -- and not affect or be affected by 8 anything -- sorry, not be affected by anything 9 that's happening to other speakers in order to be 10 able to play individually. 11:28:15 11 Q. Now, if we look at paragraph 728 of your 12 report. 13 A. Yes. 14 Q. In the "Indeed" sentence -- it looks like 15 it's the third sentence -- you state: 11:29:10 16 "... currently, when a single speaker is playing 17 music and a group is playing music and the single 18 speaker is added to the group, the speaker will 19 begin playing the music that the group was 20 playing." 11:29:23 21 Do you see that? 22 A. Uh-huh. 23 Q. Does that accurately describe the current 24 operation of the Google system? 25 MS. AUBRY: Objection. Form. 11:29:38 Page 73</p>